

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**ELYSE DICKERSON, on behalf of herself, and
SUSAN ORR, KATERINA DODBIBA, LESLIE
LEMKE, MELISSA MOTA, KRISTINE
STEELY, MELINDA KONCZAL, ANN-MARIE
HAMMOND, KATHRYN HOFFMAN,
JESSICAH MCGAFFIE, CAROLINE BUCCI,
ANYA GAU, GINA GIURICEO, AND
JENNIFER MAYNARD, on behalf of themselves
and all others similarly situated,**

PLAINTIFFS,

-- against --

**NOVARTIS CORPORATION and
ALCON LABORATORIES, INC.,**

DEFENDANTS.

**FIRST AMENDED CLASS
ACTION, COLLECTIVE
ACTION, AND INDIVIDUAL
COMPLAINT**

JURY TRIAL DEMANDED

No. 15-CV-1980 (GHW)

Plaintiffs Elyse Dickerson, Susan Orr, Katerina Dodbiba, Leslie Lemke, Melissa Mota, Kristine Steely, Melinda Konczal, Ann-Marie Hammond, Kathryn Hoffman, Jessicah McGaffie, Caroline Bucci, Anya Gau, Gina Giuriceo, and Jennifer Maynard, by and through their attorneys, Sanford Heisler Kimpel, LLP, bring this action to redress gender discrimination in employment perpetrated by Defendants Novartis Corporation and Alcon Laboratories, Inc. Based upon knowledge concerning themselves and their own acts, and upon information and belief as to all other matters, Plaintiffs allege as follows:

I. OVERVIEW

1. Defendant Novartis Corporation (“Novartis Corporation” or “Novartis Group”) is based in New York, New York. Defendant Alcon Laboratories, Inc. (“Alcon,” “the Alcon Division,” or “Novartis’s Alcon Division”) is the second largest of Novartis Group’s three divisions.

2. The Company has systematically paid its female employees less than similarly situated male employees, has denied female employees' access to leadership positions, and has discriminated against female employees in assignments to jobs, compensation grades, and compensation bands.

3. As further detailed below, the Class Representatives identified below bring this case under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991 and the Lilly Ledbetter Fair Pay Act of 2009, Title 42 U.S.C. 2000e, *et seq.* ("Title VII"), on behalf of Title VII Classes comprised of female employees in Director-Level Positions,¹ Manager-Level Positions,² Specialist/Analyst-Level Positions,³ and Sales Positions,⁴

¹ "Director-Level Positions" include, but are not limited to: Assistant Director, Associate Director, Director, Assistant Head, Associate Head, Head (excluding Vice Presidents), Lead (when used as a noun), Global Director, U.S. Director, and Executive Director.

² "Manager-Level Positions" are non-Sales positions that include, but are not limited to: Manager (excluding General Manager), Brand Manager, Product Manager, Finance Manager, Financial Planning Manager, Project Manager, Project Quality Manager, Quality Assurance Manager, Staffing Manager, Manager of Health Services and Fitness, Organizational Performance Manager, Manager of US Exports and Accounting, Manager of Global Labeling, Manager of Global Design, Global Labeling and Packaging Engineering Manager, Manager of Global Trade Compliance, Integrity and Compliance Monitoring Manager, Integrity and Compliance Policy Manager, BPA and Analysis Supporting NIBR and Chemical Research Manager, Meetings Manager, Manager of Global Public Relations and Communications, HR Manager, HR Regional Manager, HR Business Solutions Manager, Training Manager, and Operations Manager. Manager-Level Positions include versions of the foregoing titles with the terms "Global," "U.S.," "Junior," "Senior," "Associate," "II," and/or "III" appended.

³ "Specialist-Level Positions" include, but are not limited to: Talent Acquisition Specialist, Talent Management Specialist, Recruitment Specialist, Leader Development Specialist, HR Specialist, HR Business Partner, Business Excellence Process and Policy Specialist, Information Specialist, Logistics Analyst, Trade Compliance Analyst, Compliance and Reporting Specialist, Accounts Payable Specialist, Accounts Payable Coordinator, Expense Report Specialist, T&E Analyst, Documentation Analyst, Financial Systems Analyst, Financial Analyst, Planning Analyst, Tax Analyst, Sales and Use Tax Specialist, Cost Analyst, Accountant, Compensation Analyst, BPA Analyst, Senior BPA, Internal Control Analyst, MTO Performance Management Analyst, Project Coordinator, Traffic Coordinator, Training Specialist, Conference and Events Planner, Communications Specialist, Licensing Analyst, Scientist, Information Scientist, Engineer, Safety Specialist, Animal Care Specialist, Technologist, Project Toxicologist, Technical Specialist, and Regulatory Analyst. Specialist-Level Positions include versions of the foregoing titles with the terms "Global," "U.S.," "Junior," "Senior," "Associate," "II," and/or "III" appended.

respectively. As further detailed herein, the Collective Action Representatives identified below bring this case under the Equal Pay Act of 1963, 29 U.S.C. § 206(d) (“EPA”), on behalf of EPA Collectives comprised of female employees in Director-Level Positions, Manager-Level Positions, Specialist/Analyst-Level Positions, and Sales Positions, respectively.

4. The Class Representatives and Collective Action Representatives are seeking all available legal and equitable relief under Title VII and the EPA, respectively.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. § 1331 because this action is based on Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), *et seq.*, as amended; the Equal Pay Act of 1963, 29 U.S.C. § 206, *et seq.*; and the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.* This Court has supplemental jurisdiction over Plaintiff Dickerson’s pendent state claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this District under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1391(b). Defendant Novartis Corporation is headquartered in this District, and Defendants Novartis Corporation and Alcon transact substantial business in this District on an ongoing basis. Unlawful employment practices were committed in this District, and a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this District.

⁴ “Sales Positions” include, but are not limited to: Medical Sales Representative, Medical Device Sales Representative, Ocular Surface Representative, Vision Care Sales Representative, Glaucoma Specialty Sales Representative, Glaucoma Account Manager, Allergy and Otolaryngology Representative, Specialty Sales Representative, Surgical Hospital Account Manager, Group Hospital Accounts Manager, Hospital Account Manager, Cataract Account Manager, Cataract Refractive Manager, Cataract Equipment Manager, Cataract Sales Division Manager, Laser Refractive Manager, Key Account Manager, Refractive Sales Division Manager, Refractive Equipment Manager, Refractive Account Manager, Vitreoretinal Sales Division Manager, and Vitreoretinal Manager. Sales Positions include versions of the foregoing titles with the terms “Junior,” “Senior,” Associate,” “II,” and/or “III” appended.

7. Plaintiff Dickerson and the Class Representatives have standing to bring this suit under Title VII pursuant to the right to sue letter issued to Ms. Dickerson.⁵ On August 12, 2014, Ms. Dickerson timely filed a charge of discrimination with the United States Equal Employment Opportunity Commission, which contained both individual and class charges on behalf of all female employees in Novartis's Alcon Division. The EEOC issued a right to sue letter to Ms. Dickerson on January 28, 2015, and the parties subsequently entered into a Tolling Agreement and a Standstill Agreement that has tolled the time to bring this suit through the present.

III. THE PARTIES

A. PLAINTIFFS

8. From March 2002 until her discriminatory and retaliatory termination on January 2, 2015, **PLAINTIFF ELYSE DICKERSON** was a female "employee" at the Company, as defined by Title VII and the EPA. She currently resides in Fort Worth, Texas.

9. From October 1997 until she resigned from the Company on April 2, 2014, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE SUSAN ORR** was a female "employee" at the Company, as defined by Title VII and the EPA. She currently resides in Ambler, Pennsylvania. Dr. Orr serves as a class representative for the **Title VII Director Class** and as a collective action representative for the **EPA Director Collective**.

10. From November 2009 until she resigned from the Company in July 2015, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION**

⁵ In addition, Class Representatives Orr, Dodbiba, Lemke, Konczal, Hoffman, McGaffie, and Bucci each have standing to bring this suit under Title VII pursuant to right to sue letters that were issued to each of them after each timely filed a charge of discrimination with the EEOC containing both individual and class charges on behalf of all female employees in Novartis's Alcon Division. Class Representatives Orr, Dodbiba, Lemke, Konczal, Hoffman, and McGaffie subsequently entered into Tolling Agreements with Defendants that tolled the time to bring this suit through the present.

REPRESENTATIVE KATERINA DODBIBA was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Glenn Mills, Pennsylvania. Ms. Dodbiba serves as a class representative for the **Title VII Director Class** and as a collective action representative for the **EPA Director Collective**.

11. From September 2000 to the present, **PLAINTIFF AND COLLECTIVE ACTION REPRESENTATIVE LESLIE LEMKE** has been a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Crowley, Texas. Dr. Lemke serves as a class representative for the **Title VII Director Class** and as a collective action representative for the **EPA Director Collective**.

12. From August 2005 until she resigned from the Company in September 2012, **PLAINTIFF AND COLLECTIVE ACTION REPRESENTATIVE MELISSA MOTA** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Hurst, Texas. Ms. Mota serves as a collective action representative for the **EPA Director Collective**.

13. From April 2010 until she resigned from the Company in June 2013, **PLAINTIFF AND COLLECTIVE ACTION REPRESENTATIVE KRISTINE STEELY** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Mansfield, Texas. Mrs. Steely serves as a collective action representative for the **EPA Director Collective**.

14. From September 2000 through November 2015, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE MELINDA KONCZAL** has been a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Fort Worth, Texas. Ms. Konczal serves as a class representative

for the **Title VII Manager Class** and as a collective action representative for the **EPA Manager Collective**.

15. From January 2011 to August 2013, **PLAINTIFF AND COLLECTIVE ACTION REPRESENTATIVE ANN-MARIE HAMMOND** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Atlanta, Georgia. Ms. Hammond serves as a collective action representative for the **EPA Specialist/Analyst Collective**.

16. From April 2010 until she resigned from the Company in November 2014, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE KATHRYN HOFFMAN** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Colleyville, Texas. Ms. Hoffman serves as a class representative for the **Title VII Specialist/Analyst Class** and as a collective action representative for the **EPA Specialist/Analyst Collective**.

17. From January 2013 until she resigned from the Company in July 2014, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE JESSICAH MCGAFFIE** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Irving, Texas. Ms. McGaffie serves as a class representative for the **Title VII Specialist/Analyst Class** and as a collective action representative for the **EPA Specialist/Analyst Collective**.

18. From April 2011 to the present, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE CAROLINE BUCCI** has been a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides

in Towaco, New Jersey. Ms. Bucci serves as a class representative for the **Title VII Sales Class** and as a collective action representative for the **EPA Sales Collective**.

19. From January 2011 until she resigned from the Company in March 2014, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE ANYA GAU** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Sarasota, Florida. Ms. Gau serves as a class representative for the **Title VII Sales Class** and as a collective action representative for the **EPA Sales Collective**.

20. From March 2008 to the present, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE GINA GIURICEO** has been a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Belleville, New Jersey. Ms. Giuriceo serves as a class representative for the **Title VII Sales Class** and as a collective action representative for the **EPA Sales Collective**.

21. From January 1999 until she resigned from the Company in June 2014, **PLAINTIFF, CLASS REPRESENTATIVE, AND COLLECTIVE ACTION REPRESENTATIVE JENNIFER MAYNARD** was a female “employee” at the Company, as defined by Title VII and the EPA. She currently resides in Ridgewood, New Jersey. Ms. Maynard serves as a class representative for the **Title VII Sales Class** and as a collective action representative for the **EPA Sales Collective**.

B. DEFENDANTS

22. **DEFENDANT NOVARTIS CORPORATION** is a multinational corporation engaged in the business of developing, manufacturing, marketing, and selling pharmaceutical and healthcare products. Defendant Novartis Corporation is incorporated in New York and

headquartered in New York, New York. It regularly transacts business in this District.

23. At all times since the completion of a merger on or about April 8, 2011, **DEFENDANT ALCON LABORATORIES, INC.**, is and has been a division and wholly-owned subsidiary of Defendant Novartis Corporation. Prior to that time, from on or about August 26, 2010, to on or about April 8, 2011, Alcon Laboratories, Inc. was controlled by Novartis Corporation, which had a 77% ownership interest in Alcon. Alcon Laboratories, Inc. is incorporated in Delaware, has offices in six states in the United States, and has a sales force that operates across the United States. It regularly transacts business in this District.

24. At all times relevant to this action, Defendants Novartis Corporation and Alcon were and are “employers” covered by Title VII and the EPA. At all times since they completed their merger on or about April 8, 2011, Defendants Novartis Corporation and Alcon have operated as the single employer or, alternatively, as joint employers of Plaintiffs, the Classes, and the Collectives.

IV. FACTUAL ALLEGATIONS

A. NOVARTIS GROUP AND THE ALCON DIVISION’S COMMON EMPLOYMENT POLICIES AND CENTRALIZED DECISION-MAKING

25. Novartis establishes common employment policies, practices, and procedures for its Alcon Division. Specifically, those policies include compensation and benefits, assignment to compensation bands, internal and external hiring, job categorization, and the formal performance management process. Further, Novartis has control over payroll, employee complaints, and a wide array of human resources functions for the Alcon Division.

B. PLAINTIFFS, CLASS REPRESENTATIVES, AND COLLECTIVE ACTION REPRESENTATIVES

1. DIRECTORS

a. PLAINTIFF ELYSE DICKERSON

i. *Ms. Dickerson's Distinguished Performance*

26. Ms. Dickerson received her Bachelor of Arts degree from the University of Notre Dame in 1996 and earned a Master in Business Administration degree from Southern Methodist University in 2000. She completed continuing education programs at the Kellogg School of Management at Northwestern University in 2005 and at the Stagen Integral Leadership Program in 2013.

27. At the Company, Ms. Dickerson worked as an Associate Product Manager from March 2002 to January 2003, as a Product Manager from January 2003 to January 2005, and as a Senior Product Manager from January 2005 to January 2010. She worked as a Global Marketing Director for Pharmaceuticals from January 2010 until her discriminatory and retaliatory termination on January 2, 2015.

28. Ms. Dickerson was a strong performer. In her annual performance reviews, Ms. Dickerson typically garnered high ratings. At the time Novartis terminated her, Ms. Dickerson was a Global Marketing Director managing one of the largest product portfolios in the entire Alcon Division. Ms. Dickerson directly oversaw more than ten major brands with net sales that totaled approximately \$1.7 billion in 2014 – representing more than 15% of Alcon's net sales and almost 3% of net sales for all of Novartis Group for that year. In 2013, Ms. Dickerson achieved such strong results for one of her brands that Novartis Executive Committee member and Alcon Division Head Kevin Buehler highlighted the brand's strong performance in his presentation at Novartis Investor Day. In 2014, Ms. Dickerson achieved such strong results for one of her products that its "double-digit growth" was highlighted in the Novartis Annual Report.

29. Ms. Dickerson's strong performance also earned recognition outside of Novartis. In 2012, an independent, New York-based pharmaceutical marketing magazine awarded Ms. Dickerson its Trail Blazer Brand Champion Award, an award given to "exceptional contributors" with "outstanding leadership, innovation, creativity and a dedication to improving patients' lives" who have "initiated groundbreaking marketing strategies and tactics." In 2013, the Stagen Integral Leadership Program awarded Ms. Dickerson its Black Belt Award for outstanding leadership.

ii. *Disparate Treatment of Ms. Dickerson Based on Her Gender*

30. Despite her distinguished performance, the Company's senior management marginalized and discriminated against Ms. Dickerson based on her gender.

31. Among other things, Ms. Dickerson repeatedly requested cross-divisional or cross-brand experiences, but the Company did not provide her with these career-enhancing opportunities. Nor did the Company grant her repeated requests – over the span of ten years – for overseas assignments that would help advance her career.

iii. *Pay Discrimination Against Ms. Dickerson*

32. Throughout her tenure at the Company, the Company paid Ms. Dickerson at a lower rate than similarly situated male employees for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

33. In 2009, Ms. Dickerson, who at the time was a Grade 25 employee, took over the job responsibilities of a departing Grade 27 employee, in addition to Ms. Dickerson's preexisting duties. Ms. Dickerson requested a pay increase commensurate with her expanded job responsibilities, but the Company refused to promote her to the Grade 27 level and instead

maintained her at the Grade 25 level. In so doing, the Company denied Ms. Dickerson not only a higher Grade 27 salary, but also all the additional benefits that came with a Grade 27 position, including increased bonuses, increased equity awards, a car allowance, and an annual executive physical.

34. In January 2010, Ms. Dickerson became a Global Marketing Director of Pharmaceuticals; she was the first and, at the time, the only female Global Marketing Director at Alcon. Even though Global Directors were typically Grade 30 positions, the Company put Ms. Dickerson at the Grade 29 level – depriving her of the benefits available only to employees at or above Grade 30, including enrollment into an executive retirement plan, enrollment in a company-sponsored variable annuity, and significantly increased bonuses and equity awards. Furthermore, the Company set her salary in the bottom quartile for a Grade 29 position. Vice President Alex Long (“VP Long”) told Ms. Dickerson that she would remain at a Grade 29 salary until she had “proven herself.” When Ms. Dickerson asked VP Long whether the other Global Marketing Directors (all of whom were male) were subject to the same probationary treatment, he admitted that they were not.

35. In March 2011, after Ms. Dickerson had performed Global Marketing Director duties for over a year without commensurate compensation and benefits, the Company finally adjusted her position to the Grade 30 level, but the Company set her salary in the bottom quartile for that grade. Upon information and belief, the Company set her salary at an amount that was lower than any of the male marketing directors.

36. In or about December 2012, Novartis deprived Ms. Dickerson of the high performance rating that she deserved. Ms. Dickerson’s supervisor at the time, Judy Robertson, fought for Ms. Dickerson to receive the highest rating – a “3.3” – based on Ms. Dickerson’s

exceptional performance in 2012, but senior management refused. At the calibration meeting where Ms. Dickerson's performance rating was being discussed, Executive Leadership Team member Stuart Raetzman shook his head "no," claimed that he did not "see the leader" in Ms. Dickerson, and reduced Ms. Dickerson's "Novartis Values and Behaviors" rating while approving higher ratings for male employees. Novartis's downgrading of Ms. Dickerson's performance rating caused her financial losses because merit increases, short-term incentive compensation, long-term incentive compensation, and other forms of compensation are directly tied to performance ratings. In her final performance evaluation of Ms. Dickerson, Ms. Robertson remarked that the Executive Leadership Team was overlooking Ms. Dickerson's significant accomplishments.

37. In December 2012, Ms. Dickerson's job responsibilities increased further after another Global Director, Bob DeBartolo, left Novartis and the Company reassigned his responsibilities to Ms. Dickerson. In March 2013, Ms. Dickerson requested a pay increase and/or a promotion to reflect her expanded responsibilities, but once again the Company rejected her request. By contrast, the Company increased the grade level and compensation of Joe Griffin, a male employee reporting to Ms. Dickerson who had also assumed increased responsibilities as a result of Mr. DeBartolo's departure.

38. Throughout her tenure as a Global Marketing Director, the Company paid Ms. Dickerson lower total compensation than similarly situated male employees performing equal work, including lower base pay, lower short-term incentive compensation targets and payments, lower long-term incentive compensation targets and payments, and lower contributions to her Company retirement account.

39. For example, upon information and belief, the Company paid Rafael Chan, James Sluck, and Joseph Jenson higher total compensation than Ms. Dickerson, including higher salaries, higher short-term incentive compensation payments, higher long-term incentive compensation, and higher contributions to their Company retirement accounts. The work performed by Ms. Dickerson was nearly identical to the work performed by these men, all of whom worked as marketing directors like Ms. Dickerson. The pay differential was not based on any factor other than sex. Rafael Chan, James Sluck, and Joseph Jenson all had experience, qualifications, and career trajectories that were nearly identical to Ms. Dickerson's.

iv. *Defendants' Retaliation against and Unlawful Termination of Ms. Dickerson*

40. Ms. Dickerson was a vocal opponent of the Company's discriminatory policies, practices, decisions, and corporate culture. She complained on multiple occasions about the gender discrimination she was experiencing, as well as the Company's disparate treatment of women more generally. Rather than take action to remedy its wrongdoing, Novartis retaliated against and ultimately wrongfully terminated Ms. Dickerson.

41. For example, in January 2013, after Novartis deprived Ms. Dickerson of the high performance rating that she deserved, Ms. Dickerson complained to her supervisor, Ms. Robertson, about the Company's discriminatory treatment.

42. In May 2013, Ms. Dickerson's new supervisor, Jeff Evanson, told her that he was recommending her for a role as Global Director of Retina, a high profile position. However, Mr. Evanson's recommendation was overridden by male members of the Executive Leadership Team, who claimed that Ms. Dickerson's "leadership style" was not right for the role. After the Company denied her the Global Director of Retina role, Ms. Dickerson complained to Mr.

Evanson about unequal pay, the lack of a clear career development plan, and the general lack of support from the male leadership.

43. Additionally, on August 29, 2013, during a global webcast hosted by Novartis Executive Committee member and Alcon Division Head Kevin Buehler (“Division Head Buehler”) and watched by Company employees around the world, Ms. Dickerson asked what Division Head Buehler and other members of senior management were doing to change the gender gap in the leadership of the Alcon Division. Division Head Buehler deflected the question, while Executive Leadership Team member Stuart Raetzman conceded that female representation at the highest level was “below where we need to be.” None of the executives on the global webcast provided details regarding how the Company planned to remedy the situation. Later that same day, Ms. Dickerson followed up with an email on the subject to Executive Leadership Team members Stuart Raetzman and Robert Warner. Ms. Dickerson did not receive a substantive response to her inquiry about increasing women’s representation among leaders of the Alcon Division. Upon information and belief, the email was forwarded to Division Head Buehler, but he also took no action to remedy the gender gap.

44. Instead, Division Head Buehler and the Company retaliated against Ms. Dickerson. In or about September 2013, shortly after the global webcast, Division Head Buehler excluded Ms. Dickerson from a project that should have fallen under her purview as the Global Director in charge of the Alcon Division’s dry eye products franchise. Instead, Division Head Buehler surreptitiously assigned then-Vice President Jim Murphy to lead the project, who told Ms. Dickerson that he did not want her to be involved. Ms. Dickerson’s direct supervisor, Mr. Evanson, looped Ms. Dickerson back in on the project a mere week before a final recommendation on the project was due.

45. In or about December 2013, at Ms. Dickerson's annual performance review for 2013, the Company assigned Ms. Dickerson the lowest possible rating – a “1” – on the metric of her adherence to “Novartis Values and Behaviors.” The Company justified the low rating with vague claims about Ms. Dickerson's “leadership behaviors” and “listening skills.” This criticism was inconsistent with Ms. Dickerson's performance during her prior decade at the Company. The rating was also at odds with the substantive feedback provided in the prior year's evaluation, which had listed the majority of Ms. Dickerson's leadership attributes as strengths, not areas under development. Ms. Dickerson's supervisor, Mr. Evanson, informed Ms. Dickerson that he had recommended that she receive a higher rating, but the male-dominated Executive Leadership Team had “mandated” that she receive the “1” rating for her “Novartis Values and Behaviors.” In conjunction with the low rating, the Company froze Ms. Dickerson's salary, awarded her a smaller short-term incentive award than she had received in years past, and awarded her no long-term incentive compensation (typically worth hundreds of thousands of dollars after stock appreciation). The Company also took Ms. Dickerson out of the running for new job assignments, including international assignments, cross-divisional opportunities, and other career-enhancing opportunities.

46. On August 12, 2014, Ms. Dickerson filed her charge of discrimination, alleging both individual and class-wide discrimination, with the EEOC. The Company was informed of the filing and was warned against retaliating against Ms. Dickerson on account of her protected activities.

47. Yet, rather than comply with its obligation not to retaliate, the Company, through the Novartis Business Practices Office, launched a sham investigation to try to smear Ms. Dickerson and contrive a reason to terminate her. In addition, the Company began soliciting

statements from Ms. Dickerson's colleagues to try to impugn Ms. Dickerson's character and record of service.

48. The Novartis Business Practices Office is controlled by Novartis Corporation.

49. On December 13, 2014, Ms. Dickerson went on federally-protected medical leave. A Company physician had recommended that Ms. Dickerson go on medical leave as a result of the extreme stress and anxiety caused by the Company's continued mistreatment. Ms. Dickerson's medical leave was scheduled to last until on or about February 1, 2015.

50. While the Novartis Business Practices Office's sham investigation was still incomplete, and during Ms. Dickerson's federally-protected medical leave, Novartis terminated Ms. Dickerson on January 2, 2015. This was less than five months after she had lodged formal charges of discrimination with the EEOC and just over two weeks before a majority of her Novartis stock grants, which were worth in excess of \$750,000, were scheduled to vest. The Company's explanation of the reasons for Ms. Dickerson's termination was pretextual.

v. *Defendants' Defamation of Plaintiff Dickerson*

51. Following Plaintiffs' filing of this lawsuit, Defendants Novartis Corporation and Alcon Laboratories, Inc., libeled and defamed Ms. Dickerson by falsely stating that she had been terminated "for serious violations of the Novartis Code of Conduct."

52. Upon information and belief, on or about March 17, 2015, Defendant Novartis Corporation released a statement that one of the plaintiffs who brought the lawsuit "was terminated for serious violations of the Novartis Code of Conduct." This statement referred to and concerned Ms. Dickerson, who at the time was the only plaintiff whom the Company had terminated. The defamatory statement was republished in *FiercePharma* on March 18, 2015.

53. Upon information and belief, on or about March 17, 2015, a spokeswoman for Defendant Novartis Corporation wrote to a reporter at the *Wall Street Journal*, stating that one of the former employees who brought the initial complaint in this matter had been terminated for “serious violations” of the Novartis Code of Conduct. Again, this statement referred to and concerned Ms. Dickerson, who at the time was the only plaintiff whom the Company had terminated. The defamatory statement was republished in the *Wall Street Journal* on March 18, 2015.

54. On March 18, 2015, Novartis Executive Committee member and Alcon Division Head Jeff George sent an email to all Alcon Division associates discussing the filing of Plaintiffs’ lawsuit and stating, “It is important to note that one of the two former employees was terminated for serious violations of the Novartis Code of Conduct and other internal policies. We do not tolerate such misconduct, and when inappropriate activities are identified, we take appropriate action, up to and including terminating employment when necessary.”

55. Division Head George’s defamatory statement was republished in part in the *Fort Worth Star-Telegram* on March 24, 2015. The *Fort Worth Star-Telegram* noted that Division Head George was referring to Ms. Dickerson: “George does make reference to Dickerson in his letter, although not by name, telling Alcon associates that she was fired for ‘serious violations’ of the Novartis Code of Conduct and other internal policies.”

56. On March 18, 2015, in conjunction with Alcon Division Head George’s Company-wide email, Defendant Alcon disseminated to all Alcon Division employees a document, entitled “Important Facts about the Alcon Gender Discrimination Lawsuit.” The document included the following statement: “It is important to note that one of these former employees was terminated for serious violations of our Code of Conduct and other internal

policies. We do not allow activities that are not in compliance with the company's principles for ethical business conduct. When inappropriate activities are identified, we take appropriate action, including terminating employment when necessary." Again, this statement referred to and concerned Ms. Dickerson, who at the time was the only plaintiff whom the Company had terminated.

57. All of these statements were false. The real reason the Company terminated Ms. Dickerson was in retaliation for engaging in protected activity.

58. Defendant Novartis Corporation and Defendant Alcon Laboratories, Inc. published the defamatory statements in a grossly irresponsible manner, with actual knowledge of their falsity or with reckless disregard for their accuracy. Both Defendant Novartis Corporation and Defendant Alcon Laboratories, Inc. knew or had reason to know the Company's real reasons for terminating Ms. Dickerson, but nonetheless chose to disseminate a false and defamatory explanation for terminating her.

59. Defendants' false statements accused Ms. Dickerson of being involved in behavior incompatible with the proper conduct of her business, trade, or profession. These false statements impugned Plaintiff Dickerson's honesty, trustworthiness, dependability, and professional fitness and abilities.

60. Defendants published the defamatory statements in an attempt to discredit Ms. Dickerson, to cause her harm, and to dissuade other Company employees from joining this litigation.

61. As a result of Defendants' defamatory conduct and actions, Ms. Dickerson has suffered serious damages.

b. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE SUSAN ORR

62. Plaintiff Susan Orr suffered discrimination based on her sex.

63. At the Company, Dr. Orr worked as a Senior Clinical Research Associate from October 1997 until January 1999; Senior Clinical Research Scientist from January 1999 until March 2000; Principal Clinical Research Scientist from March 2000 until July 2002; Manager from July 2002 until July 2005; Assistant Director from July 2005 until February 2007; Associate Director from February 2007 until approximately mid-2008; and Director from approximately mid-2008 until November 2009. Dr. Orr worked as a Senior Director from November 2009 until November 2013, with the title of Head of Pharmaceutical Alliances. From August 2010 until November 2013, Dr. Orr simultaneously served as Head of Academic Collaborations, reporting directly to an Executive Leadership Team member. Dr. Orr subsequently moved from the Company's Research and Development ("R&D") division into its Commercial division, where she was Global Director for New Product and Product Strategy from on or about November 2013 until she resigned from the Company on April 2, 2014.

64. Dr. Orr was a strong performer at the Company.

65. The Company paid Dr. Orr at a lower rate than men for performing equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

66. Despite Dr. Orr's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

c. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE KATERINA DODBIBA

67. Plaintiff Katerina Dodbiba suffered discrimination based on her sex.

68. The Company employed Ms. Dodbiba from November 2009 until she resigned in July 2015. Ms. Dodbiba worked as a Senior Financial Analyst II from November 2009 until June 2012, as a Business Analyst from June 2012 until November 2014, and as Head of Business Planning and Analysis for U.S. Surgical from November 2014 to July 2015.

69. Ms. Dodbiba was a strong performer at the Company.

70. The Company paid Ms. Dodbiba at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

d. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE LESLIE LEMKE

71. Plaintiff Leslie Lemke suffered discrimination based on her sex.

72. The Company has employed Dr. Lemke from September 2000 to the present. Dr. Lemke worked as a Senior Scientist II from 2000 to 2002, a Senior Scientist III from 2003 to 2005, a Manager from 2006 to 2008, an Assistant Director in 2009, a Project Toxicologist III from 2010 to September 2012, a Director of Preclinical Safety for Pharmaceutical Toxicology from September 2012 to October 2013, and a Senior Project Toxicologist from October 2013 to present.

73. Dr. Lemke was a strong performer at the Company.

74. The Company paid Dr. Lemke at a lower rate than her male colleagues for performing equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

75. Despite Dr. Lemke's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

**e. PLAINTIFF AND EPA COLLECTIVE ACTION REPRESENTATIVE
MELISSA MOTA**

76. Plaintiff Melissa Mota suffered discrimination based on her sex.

77. The Company employed Ms. Mota from August 2005 until she resigned in September 2012. Ms. Mota worked as a Conference and Events Planner from August 2005 to October 2007, Senior Communications Specialist from October 2007 to June 2009, Manager of Global PR and Communications from June 2009 until April 2011, Associate Director for Global PR and Communications from April 2011 until July 2012, and Manager of Global PR and Communications from July 2012 until she resigned in September 2012.

78. Ms. Mota was a strong performer at the Company.

79. The Company paid Ms. Mota at a lower rate than men for performing equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

**f. PLAINTIFF AND EPA COLLECTIVE ACTION REPRESENTATIVE
KRISTINE STEELY**

80. Plaintiff Kristine Steely suffered discrimination based on her sex.

81. The Company employed Mrs. Steely from April 2010 until she resigned in June 2013. Mrs. Steely worked as a Training Manager from April 2010 until August 2011, as a Regional Sales Director from August 2011 to February 2013, and as a District Manager from February 2013 until she resigned in June 2013.

82. Mrs. Steely was a strong performer at the Company.

83. The Company paid Mrs. Steely at a lower rate than her male colleagues for performing equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

2. MANAGERS

a. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE MELINDA KONCZAL

84. Plaintiff Melinda Konczal suffered discrimination based on her sex.

85. The Company employed Ms. Konczal from September 2000 to November 2015. Ms. Konczal worked as a Junior Information Specialist from September 2000 until 2005, as a Project Coordinator from 2005 to 2006, as a Senior Information Specialist from 2006 to January 2014. From January 2014 to November 2015, she worked as a Project Quality Manager.

86. Ms. Konczal was a strong performer at the Company.

87. The Company paid Ms. Konczal at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

88. Despite Ms. Konczal's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

3. SPECIALISTS

a. PLAINTIFF AND EPA COLLECTIVE ACTION REPRESENTATIVE ANN-MARIE HAMMOND

89. Plaintiff Ann-Marie Hammond suffered discrimination based on her sex.

90. Ms. Hammond was hired by Ciba Vision Corporation in January 2011 and, in conjunction with a merger with Alcon, joined Alcon as a Senior BPA Analyst. She worked as a Senior BPA Analyst until August 2013.

91. Ms. Hammond was a strong performer at the Company.

92. The Company paid Ms. Hammond at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

93. Despite Ms. Hammond's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

b. PLAINTIFF, CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE KATHRYN HOFFMAN

94. Plaintiff Kathryn Hoffman suffered discrimination based on her sex.

95. The Company employed Ms. Hoffman from April 2010 until she resigned in November 2014. Ms. Hoffman worked as a Training Specialist from April 2010 until October 2011 and a Senior Information Specialist from October 2011 until November 2014.

96. Ms. Hoffman was a strong performer at the Company.

97. The Company paid Ms. Hoffman at a lower rate than her male colleagues for performing equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

98. Despite Ms. Hoffman's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

c. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE JESSICAH MCGAFFIE

99. Plaintiff Jessicah McGaffie suffered discrimination based on her sex.

100. The Company employed Ms. McGaffie from January 2013 until she resigned in July 2014. During her tenure at the Company, Ms. McGaffie worked as a Senior Talent Acquisition Specialist.

101. Ms. McGaffie was a strong performer at the Company.

102. The Company paid Ms. McGaffie at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

4. SALES FORCE

a. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE CAROLINE BUCCI

103. Plaintiff Caroline Bucci has suffered discrimination based on her sex.

104. The Company has employed Ms. Bucci from April 2011 until the present as a Glaucoma Specialty Sales Representative.

105. Ms. Bucci has been a strong performer at the Company.

106. The Company has paid Ms. Bucci at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

b. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE ANYA GAU

107. Plaintiff Anya Gau suffered discrimination based on her sex.

108. The Company employed Ms. Gau from January 2011 until March 2014. Ms. Gau worked as an Ocular Surface Representative from January 2011 to February 2012, a Medical Device Sales Representative from February 2012 until February 2013, and as a Medical Sales Representative from February 2013 until March 2014.

109. The Company paid Ms. Gau at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

110. Despite Ms. Gau's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

c. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE GINA GIURICEO

111. Plaintiff Gina Giuriceo suffered discrimination based on her sex.

112. Ms. Giuriceo received a Bachelor of Arts degree from the University of Hartford in 1994. In 2002, she earned a Master of Science in Publishing from Pace University.

113. The Company has employed Ms. Giuriceo from 2008 to the present. From 2008 until 2013, Ms. Giuriceo worked as a Glaucoma Specialty Sales Representative. From July 2013 to the present, she has held the title of Senior Glaucoma Specialty Sales Representative.

114. The Company paid Ms. Giuriceo at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

d. PLAINTIFF, TITLE VII CLASS REPRESENTATIVE, AND EPA COLLECTIVE ACTION REPRESENTATIVE JENNIFER MAYNARD

115. Plaintiff Jennifer Maynard suffered discrimination based on her sex.

116. The Company employed Ms. Maynard from January 1999 until June 2014. Ms. Maynard worked as a Medical Sales Representative from January 1999 to December 2000, as a District Sales Trainer from January 2000 to December 2000, and a Regional Training Manager from January 2001 to December 2001. Ms. Maynard worked as Senior District Manager from January 2002 to December 2009 and as a Senior Medical Sales Representative from January 2010 until her resignation in May 2014.

117. Ms. Maynard was a strong performer at the Company.

118. The Company paid Ms. Maynard at a lower rate than men for equal work on jobs requiring equal skill, effort, and responsibility, and which were performed under similar working conditions. The pay differential was based on sex.

119. Despite Ms. Maynard's qualifications and performance, the Company denied her promotions in favor of male employees who were no more qualified than she was.

V. CLASS ACTION ALLEGATIONS

A. UNIFORM EMPLOYMENT POLICIES, CENTRALIZED DECISION-MAKING, INEFFECTIVE HUMAN RESOURCES FUNCTIONS, AND DISCRIMINATORY CORPORATE CULTURE

120. Class Representatives re-allege and incorporate by reference each and every allegation in Section IV(A) above.

121. The Company has subjected female employees to a pattern and practice of systemic unlawful disparate treatment and unlawful disparate impact comprised of (a) assigning female employees to lower classifications than similarly situated male employees performing the same job duties; (b) paying female employees less than their male counterparts; and (c) denying female employees development, promotion, and advancement opportunities resulting in their relegation to lower classifications and compensation levels.

122. These problems affecting pay, promotion, and assignments are systemic and Company-wide. They stem from the Company's common employment policies, practices, and procedures, including Novartis's job assignment, banding, development, career progression, promotion, evaluations, personnel management, and compensation policies, practices, and procedures. Such policies, practices, and procedures are not valid, job-related, or justified by business necessity and all suffer from: a lack of transparency; inadequate quality standards and controls; insufficient implementation metrics; insufficient review by Human Resources and the

Novartis Business Practices Office; and inadequate opportunities for redress or challenge. As a result, employees are assigned, evaluated, compensated, developed, promoted, and terminated within a system that is insufficiently designed, articulated, explained, or implemented to consistently, reliably, or equitably manage or reward employees.

123. These problems affecting pay, promotion, and assignments also stem from centralized decision-making by the Company's compact and predominately male senior leadership team, which maintains centralized control over employees' terms and conditions of employment and is responsible for formulating, reviewing, and approving the acts, policies, and practices that result in the systemic unlawful disparate treatment and unlawful disparate impact disparate impact of female employees in pay, promotion, and assignments.

B. CLASS DEFINITIONS

124. Class Representatives seek to maintain claims on their own behalf and on behalf of Classes of similarly situated female employees.

125. Class Representatives Orr, Dodbiba, and Lemke represent the Title VII Director Class, which consists of all female employees who have held a Director-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the class claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this class action.

126. Class Representative Konczal represents the Title VII Manager Class, which consists of all female employees who have held a Manager-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the class claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this class action.

127. Class Representatives Hoffman and McGaffie represent the Title VII Specialist/Analyst Class, which consists of all female employees who have held a Specialist/Analyst-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the class claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this class action.

128. Class Representatives Bucci, Gau, Giuriceo, and Maynard represent the Title VII Sales Class, which consists of all female employees who have held a Sales Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the class claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this class action.

129. Each Class Representative and the Class of Novartis's Alcon Division employees that she seeks to represent have been subjected to a systemic pattern and practice of gender discrimination in pay and promotion and disparate impact gender discrimination in pay and promotion by Defendants.

130. Because of the Company's systemic pattern and practice of gender discrimination in pay and promotion, each Class Representative and the Class of Novartis's Alcon Division employees that she seeks to represent have been adversely affected and have experienced harm, including the loss of compensation, employment benefits, and promotional opportunities, as well as physical and emotional pain and suffering.

131. Each Class Representative and the Class of Novartis's Alcon Division employees that she seeks to represent seek to maintain claims on her own behalf and on behalf of the foregoing Classes of similarly situated female employees. Each Class Representative seeks to

represent all of the female employees described above. The systemic gender discrimination described in this Complaint has been, and is, continuing in nature.

C. EFFICIENCY OF CLASS PROSECUTION OF COMMON CLAIMS

132. Certification of the foregoing Classes of female employees is the most efficient and economical means of resolving the questions of law and fact that are common to the claims of the Class Representatives and the respective Classes. The individual claims of the respective Class Representatives require resolution of the common questions concerning whether the Company has engaged in a systemic pattern and/or practice of gender discrimination against female employees in pay and promotion and/or whether its facially neutral policies have an adverse effect on the respective Classes in pay and promotion. The respective Classes seek remedies to eliminate the adverse effects of such discrimination in pay and promotion.

133. Each Class Representative has standing to seek such relief because of the adverse effects that such discrimination has had on her individually and on similarly situated female employees generally. The Company caused their injuries through its discriminatory policies, practices, and procedures, as well as its disparate treatment of employees who are female.

134. To gain such relief for themselves, as well as for the respective Class members, the respective Class Representatives will first establish the existence of systemic gender discrimination in Novartis's Alcon Division as the premise for the relief they seek.

135. Without certifying the aforementioned Classes, the same evidence and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant risk of inconsistent adjudications and conflicting obligations. Certification of the proposed Classes is the most efficient and judicious means of presenting the evidence and arguments necessary to resolve such questions for the Class Representatives, the proposed Classes, and the Defendants.

D. NUMEROSITY AND IMPRACTICABILITY OF JOINDER

136. Each Class that the Class Representatives seek to represent is too numerous to make joinder practicable.

137. Upon information and belief, each Class has hundreds of potential members.

E. COMMON QUESTIONS OF LAW AND FACT

138. The prosecution of the claims of the Class Representatives will require the adjudication of numerous questions of law and fact common to their claims and those of the Classes that they seek to represent.

139. The common questions of law include: (a) whether the Company has engaged in unlawful, systemic gender discrimination in its job assignment, banding, development, career progression, promotion, evaluations, personnel management, and compensation policies, practices, and procedures; (b) whether the failure to institute adequate standards, quality controls, implementation metrics, or oversight in job assignment, banding, development, career progression, promotion, evaluations, personnel management, and compensation policies, practices, and procedures violates Title VII; (c) whether the lack of transparency and of opportunities for redress in those systems violates Title VII; (d) whether the failure of upper management, HR, and the Novartis Business Practices Office to prevent, investigate, or properly respond to evidence and complaints of discrimination in job assignment, banding, development, career progression, promotion, evaluations, personnel management, and compensation policies, practices, and procedures violates Title VII; (e) whether Defendants are liable for a continuing systemic violation of Title VII; (f) a determination of the proper standards for proving a pattern or practice of discrimination by the Company against its female employees under the disparate treatment theory of liability; and (g) a determination of the proper standard for proving that

facially neutral employment practices in Novartis's Alcon Division had a disparate impact on each Class.

140. The common questions of fact include whether the Company has, through its policies, practices, and procedures: (a) used a system of assignments to jobs, compensation grades, and compensation bands that lacks meaningful or appropriate standards, implementation metrics, quality controls, transparency, and opportunities for redress; (b) through the use of that system of assignment placed female employees in jobs, compensation grades, and compensation bands lower than similarly situated male employees; (c) systemically, intentionally, or knowingly placed female employees in jobs, compensation grades, and compensation bands lower than similarly situated male employees; (d) used a compensation system that lacks meaningful or appropriate standards, implementation metrics, quality controls, transparency, and opportunities for redress; (e) through the use of that compensation system compensated female employees less than similarly situated male employees in salary, bonus, equity grants, and/or other perquisites; (f) systemically, intentionally, or knowingly compensated female employees less than similarly situated male employees; (g) used a promotion system that lacks meaningful or appropriate standards, implementation metrics, quality controls, transparency, and opportunities for redress; (h) through the use of that promotion system precluded or delayed the promotion of female employees into higher jobs traditionally held by male employees; (i) systematically, intentionally, or knowingly precluded or delayed the selection and promotion of female employees into higher-level jobs traditionally held by male employees; (j) used a system for performance evaluations that lacks meaningful or appropriate standards, implementation metrics, quality controls, transparency, or opportunities for redress; (k) through the use of that performance evaluation system inaccurately, unfairly, or disparately measured, classified, and

compared female and male employee performance; (l) systematically, intentionally, or knowingly subjected female employees to inaccurate, unfair, or discriminatorily critical or lowered performance evaluations; (m) used Human Resources and Novartis Business Practices Office systems that lack meaningful or appropriate standards, implementation metrics, quality controls, transparency, or opportunities for redress; (n) through relying upon and using these systems minimized or ignored evidence of gender discrimination in pay and promotion in the workplace and/or otherwise mishandled the investigation of and response to complaints of discrimination in pay and promotion brought to the attention of senior management, the Human Resources department, and the Novartis Business Practices Office; (o) systematically, intentionally, knowingly, or deliberately sowed an indifference to evidence of discrimination in pay, promotion, and assignments or otherwise minimized, ignored, or mishandled evidence of or complaints of gender discrimination in pay, promotion, and assignments.

141. The employment policies, practices, and procedures to which the Class Representatives and the respective Classes are subjected are set at the Company's corporate level. Each policy applies universally within each Class. These employment policies, practices, and procedures are not unique or limited to any function or business unit; rather, they apply to all function and business units and thus affect Class Representatives and the respective Classes in the same ways regardless of the function or business unit in which they work.

F. TYPICALITY OF CLAIMS AND RELIEF SOUGHT

142. The claims of the Class Representatives are typical of the claims of the respective Classes.

143. Gender discrimination in pay, promotion, and assignments affects the Class Representatives and all employee Class members in the same or similar ways corresponding to

their level within the Company. Class Representatives and similarly situated female employees were paid less than similarly situated male employees for equal work, were assigned to lower job classifications than similarly situated male employees, and were denied promotion and advancement opportunities in favor of similarly situated male employees.

144. The relief necessary to remedy the claims of the Class Representatives is exactly the same as that necessary to remedy the claims of the Class members in this case.

145. Class Representatives seek the following relief for their individual claims and for those of the members of the proposed Class: (a) a declaratory judgment that Defendants have engaged in systemic gender discrimination against the Class by (1) assigning female employees to lower job titles and classifications than their male counterparts; (2) paying female employees less than their male counterparts; and (3) denying female employees promotion and advancement opportunities in favor of male employees; (b) a permanent injunction against such continuing discriminatory conduct; (c) injunctive relief that effectuates a restructuring of the Company's promotion, training, performance evaluation, banding, compensation, and discipline policies, practices, and procedures; (d) back pay, front pay, and other equitable remedies necessary to make the employees whole from Defendants' discrimination; (e) punitive and nominal damages to prevent and deter Defendants from engaging in similar discriminatory practices in the future; (f) compensatory damages; and (g) attorneys' fees, costs, and expenses.

G. ADEQUACY OF REPRESENTATION

146. The Class Representatives' interests are co-extensive with those of the respective Classes that they seek to represent in this case. The Class Representatives seek to remedy the Company's discriminatory employment policies, practices, and procedures so that female

employees will no longer be prevented from advancing into higher-paying and higher-ranked positions within Novartis's Alcon Division.

147. The respective Class Representatives are willing and able to represent the respective Classes fairly and vigorously as they pursue their claims in this action.

148. Class Representatives have retained counsel who are qualified, experienced, and able to conduct this litigation and to meet the time and fiscal demands required to litigate an employment discrimination class action of this size and complexity. The combined interests, experience, and resources of counsel to litigate competently the Class claims at issue in this case satisfy the adequacy of representation requirement of Federal Rule of Civil Procedure 23(a)(4).

H. REQUIREMENTS OF RULE 23(B)(3)

149. The common issues of fact and law affecting the claims of the respective Class Representatives and proposed Class members, including, but not limited to, the common issues previously identified herein, predominate over any issues affecting only individual claims. These common issues include whether the Company has engaged in gender discrimination against female employees by (a) assigning female employees to lower job titles and classifications than their male counterparts; (b) paying female employees less than their male counterparts; and (c) denying female employees promotion and advancement opportunities in favor of male employees.

150. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class Representatives and members of the respective Classes.

151. The cost of proving the patterns and practices of discrimination by Defendants makes it impracticable for the Class Representatives and members of the respective Classes to prosecute their claims individually.

152. By virtue of the pattern and practice of discrimination in Novartis's Alcon Division, the Class Representatives and Class members are eligible for monetary remedies for losses caused by the systemic discrimination, including back pay, front pay, compensatory damages, and nominal and punitive damages.

VI. COLLECTIVE ACTION ALLEGATIONS

153. The Company has engaged in systemic gender discrimination in pay against its female employees. The Company has caused, contributed to, and perpetuated gender-based pay disparities through common policies, practices, and procedures, including but not limited to common compensation and performance management policies, and centralized decision-making, including but not limited to calibration meetings held by senior leaders.

154. Plaintiffs Orr, Dodbida, Lemke, Mota, and Steely ("Director Collective Action Representatives"), Plaintiff Konczal ("Manager Collective Action Representative"), Plaintiffs Hammond, Hoffman, and McGaffie ("Specialist/Analyst Collective Action Representatives"), and Plaintiffs Bucci, Gau, Giuriceo, and Maynard ("Sales Collective Action Representatives") (collectively referred to as the "Collective Action Representatives" and each referred to individually as a "Collective Action Representative") re-allege and incorporate by reference each and every allegation in the previous paragraphs alleging common policies, practices, and procedures resulting in unequal pay earned by female employees in Novartis's Alcon Division.

155. Each Collective Action Representative brings collective claims alleging violations of the Equal Pay Act of 1963 ("EPA") as a collective action pursuant to 29 U.S.C. § 216(b). Each Collective Action Representative seeks to represent all similarly situated employees described above who were paid less than male employees for doing similar work. The systemic gender discrimination described in this Complaint has been, and is, continuing in nature.

156. The Director Collective Action Representatives seek to represent the Director Collective, which consists of all female employees who have held a Director-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the collective claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this collective action. The Manager Collective Action Representatives seek to represent the Manager Collective, which consists of all female employees who have held a Manager-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the collective claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this collective action. The Specialist/Analyst Collective Action Representatives seek to represent the Specialist/Analyst Collective, which consists of all female employees who have held a Specialist/Analyst-Level Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the collective claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this collective action. The Sales Collective Action Representatives seek to represent the Sales Collective, which consists of all female employees who have held a Sales Position at Alcon in the United States at any time since March 17, 2012, excluding individuals who have released the collective claims detailed herein pursuant to individual agreements with Alcon that did not contain an exception permitting participation in this collective action.

157. Questions of law and fact common to each Collective Action Representative and the respective Collective that she seeks to represent include but are not limited to the following:

(a) Whether members of the Collective were subject to an unlawful common policy that resulted in unequal pay for equal work;

(b) Whether Defendants unlawfully failed and continue to fail to compensate members of the Collective at a level commensurate with similarly situated male employees;

(c) Whether Defendants' policy, practice, or procedure of failing to compensate members of the Collective at levels commensurate with comparable male employees violates applicable provisions of the EPA; and

(d) Whether Defendants' failure to compensate members of the Collective at a level commensurate with comparable male employees was willful within the meaning of the EPA.

158. Counts for violation of the EPA may be brought and maintained as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) for all claims asserted by the Collective Action Representatives, because their claims are similar to the claims of the Collectives that they seek to represent.

159. The Collective Action Representatives and the respective Collectives that they seek to represent (a) are similarly situated and (b) are subject to Defendants' common compensation policies, practices, and procedures and centralized decision-making resulting in unequal pay based on sex by failing to compensate members of the Collective at a level commensurate with male employees who perform substantially equal work and/or hold equivalent levels, job titles, and positions.

VII. COUNTS

COUNT I **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 ("TITLE VII"),** **AS AMENDED** **42 U.S.C. § 2000e, et seq.** **DISCRIMINATION IN PAY, PROMOTION, AND ASSIGNMENTS** **(On Behalf of the Title VII Director Class Representatives and the Title VII Director**

Class, the Title VII Manager Class Representative and the Title VII Manager Class, the Title VII Specialist/Analyst Class Representatives and the Title VII Specialist/Analyst Class, and the Title VII Sales Class Representatives and the Title VII Sales Class Against Defendants)

160. The Title VII Class Representatives re-allege and incorporate by reference each and every allegation in each and every aforementioned paragraph as if fully set forth herein.

161. This Count is brought on behalf of the Title VII Class Representatives and all members of the proposed Title VII Classes.

162. Defendants have discriminated against the Title VII Class Representatives and all members of the proposed Title VII Classes in violation of Title VII by subjecting them to different treatment on the basis of their gender. The members of the Title VII Classes have been disparately impacted and disparately treated as a result of Defendants' wrongful conduct and their policies, practices, and procedures.

163. Defendants have discriminated against the Title VII Class Representatives and members of the proposed Title VII Classes in violation of Title VII by subjecting them to discriminatory compensation; discriminatory denials of promotions; and discriminatory assignments to jobs, compensation grades, and compensation bands.

164. Defendants' conduct has been intentional and conducted in disregard of the rights of Title VII Class Representatives and members of the proposed Title VII Classes.

165. As a result of Defendants' conduct alleged in this complaint, the Title VII Class Representatives and all members of the Title VII Classes have suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, and other financial losses, as well as humiliation, embarrassment, emotional and physical distress, and mental anguish.

166. By reason of Defendants' discrimination, the Title VII Class Representatives and members of the members Title VII Classes are entitled to all legal and equitable remedies

available for violations of Title VII, including, but not limited to, back pay, reinstatement and/or front pay, nominal damages, compensatory damages, punitive damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT II
VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED BY
THE EQUAL PAY ACT OF 1963 ("EQUAL PAY ACT"),
29 U.S.C. § 206, *et seq.*

(On Behalf of the EPA Director Collective Action Representatives and the EPA Director Collective, the EPA Manager Collective Action Representative and the EPA Manager Collective, the EPA Specialist/Analyst Collective Action Representatives and the EPA Specialist/Analyst Collective, and the EPA Sales Collective Action Representatives and the EPA Sales Collective Against Defendants)

167. EPA Collective Action Representatives re-allege and incorporate by reference each and every allegation in the previous paragraphs as though fully set forth herein.

168. This Count is brought on behalf of the EPA Collective Action Representatives and all members of the EPA Collectives.

169. Defendants are or were employers of the EPA Collective Action Representatives and members of the EPA Collectives within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. § 206, *et seq.*, as amended by the Equal Pay Act of 1963.

170. Defendants have discriminated against the EPA Collective Action Representatives and members of the EPA Collectives by paying them less than similarly situated male employees who performed jobs which required equal skill, effort, and responsibility, and which were performed under similar working conditions.

171. Defendants so discriminated against the EPA Collective Action Representatives and members of the EPA Collectives by subjecting them to common discriminatory pay and performance management policies, including discriminatory salaries, short-term incentive awards, long-term incentive awards, and other compensation incentives, discriminatory

assignments, and other opportunities that would result in unequal compensation, and other forms of discrimination in violation of the Equal Pay Act.

172. The differential in pay between the EPA Collective Action Representatives and members of the EPA Collectives and similarly situated male employees was not due to seniority, merit, quantity or quality of production, or a factor other than sex, but was due to sex.

173. Defendants caused, attempted to cause, contributed to, or caused the continuation of wage rate discrimination based on sex in violation of the Equal Pay Act.

174. Defendants intentionally paid the EPA Collective Action Representatives and members of the EPA Collectives less than similarly situated male employees. The foregoing conduct constitutes a willful violation of the Equal Pay Act within the meaning of 29 U.S.C. § 255(a). Because Defendants have willfully violated the Equal Pay Act, a three-year statute of limitations applies to such violations pursuant to 29 U.S.C. § 255(a).

175. As a result of Defendants' unlawful conduct, the EPA Collective Action Representatives and members of the EPA Collectives have suffered and will continue to suffer harm, including, but not limited to, lost earnings, lost benefits, and other financial losses, as well as non-economic damages, including emotional and physical distress and mental anguish.

176. The EPA Collective Action Representatives and members of the EPA Collectives are entitled to all legal and equitable remedies available for violations of the Equal Pay Act, including, but not limited to, back pay, liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees and litigation costs, and other compensation pursuant to 29 U.S.C. § 216(b).

COUNT III
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 ("TITLE VII"),
AS AMENDED
42 U.S.C. § 2000e, et seq.

**Pay Discrimination
(Plaintiff Dickerson Against Defendants)**

177. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

178. Defendants have discriminated against Plaintiff Dickerson by paying her less than similarly situated male employees on the basis of her gender, including discrimination in setting her base salary, bonuses, stock grants and/or stock options, and other forms of compensation and benefits.

179. Defendants' conduct has been intentional, deliberate, willful, malicious, reckless, and conducted in callous disregard of the rights of Plaintiff Dickerson, entitling her to punitive damages.

180. By reason of the continuous nature of Defendants' discriminatory conduct, which persisted throughout Plaintiff Dickerson's employment, Plaintiff Dickerson is entitled to the application of the continuing violation doctrine to all violations alleged herein.

181. As a result of Defendants' discrimination, Plaintiff Dickerson has suffered and continues to suffer harm, including, but not limited to, lost wages, lost bonuses, lost stock grants and/or stock options, and other forms of compensation, lost benefits, and attorneys' fees and costs.

182. As a further result of Defendants' unlawful conduct, Plaintiff Dickerson has suffered and continues to suffer harm, including, but not limited to, impairment to her name and reputation, humiliation, embarrassment, emotional and physical distress, and mental anguish.

183. Plaintiff Dickerson is entitled to all legal and equitable remedies available for violations of Title VII, including, but not limited to, back pay, reinstatement and/or front pay,

nominal damages, compensatory damages, punitive damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT IV
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 ("TITLE VII"),
AS AMENDED
42 U.S.C. § 2000e, et seq.
Unlawful Discharge
(Plaintiff Dickerson Against Defendants)

184. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

185. Defendants have discriminated against Plaintiff Dickerson by discharging her on the basis of her gender.

186. Defendants' conduct has been intentional, deliberate, willful, malicious, reckless, and conducted in callous disregard of the rights of Plaintiff Dickerson, entitling her to punitive damages.

187. As a result of Defendants' discrimination, Plaintiff Dickerson has suffered and continues to suffer harm, including, but not limited to, lost wages, lost bonuses, lost stock grants and/or stock options, and other forms of compensation, lost benefits, and attorneys' fees and costs.

188. As a further result of Defendants' unlawful conduct, Plaintiff Dickerson has suffered and continues to suffer harm, including, but not limited to, impairment to her name and reputation, humiliation, embarrassment, emotional and physical distress, and mental anguish.

189. Plaintiff Dickerson is entitled to all legal and equitable remedies available for violations of Title VII, including, but not limited to, back pay, reinstatement and/or front pay, nominal damages, compensatory damages, punitive damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT V
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (“TITLE VII”),
AS AMENDED
42 U.S.C. § 2000e-5(f), *et seq.*
Retaliation
(Plaintiff Dickerson Against Defendants)

190. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation contained in the previous paragraphs as though fully set forth herein.

191. Plaintiff Dickerson engaged in protected activity by filing her charge of discrimination with the EEOC and by otherwise complaining to people in management positions about gender discrimination at the Company.

192. Defendants engaged in adverse employment actions against Plaintiff Dickerson for engaging in protected activity by downgrading her performance ratings, excluding her from assignments, and ultimately by terminating Plaintiff Dickerson – just over two weeks before her Novartis stock grants worth in excess of \$750,000 were scheduled to vest. These adverse employment actions materially and adversely changed Plaintiff Dickerson’s overall terms and conditions of employment.

193. A reasonable employee would find the Company’s retaliatory acts materially adverse and such acts would dissuade a reasonable person from making or supporting a charge of discrimination.

194. Defendants’ retaliatory acts against Plaintiff Dickerson were a direct, proximate, and pretextual result of Plaintiff Dickerson’s protected activities.

195. Defendants’ conduct has been intentional, deliberate, willful, malicious, reckless, and conducted in callous disregard of the rights of Plaintiff Dickerson, entitling Plaintiff Dickerson to punitive damages.

196. As a result of Defendants' unlawful conduct, Plaintiff Dickerson has suffered and continues to suffer harm, including, but not limited to, lost wages, lost bonuses, lost stock grants and/or stock options, and other forms of compensation, lost benefits, attorneys' fees and costs, as well as impairment to her name and reputation, humiliation, embarrassment, emotional and physical distress, and mental anguish.

197. Plaintiff Dickerson is entitled to all legal and equitable remedies available for violations of Title VII, including, but not limited to, back pay, reinstatement and/or front pay, nominal damages, compensatory damages, punitive damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT VI
VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED BY
THE EQUAL PAY ACT OF 1963 ("EQUAL PAY ACT"),
29 U.S.C. § 206, *et seq.*
DENIAL OF EQUAL PAY FOR EQUAL WORK
(Plaintiff Dickerson Against Defendants)

198. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

199. Defendants were Plaintiff Dickerson's employer within the meaning of the Fair Labor Standards Act of 1938, 29 U.S.C. § 206, *et seq.*, as amended by the Equal Pay Act of 1963.

200. Defendants discriminated against Plaintiff Dickerson by paying her less than similarly situated male employees who performed jobs which required equal skill, effort, and responsibility, and which were performed under similar working conditions.

201. Defendants so discriminated against Plaintiff Dickerson by subjecting her to discriminatory pay and performance management policies, including discriminatory salaries, short-term incentive awards, long-term incentive awards, and other compensation incentives,

discriminatory assignments, and other opportunities that would result in unequal compensation, and other forms of discrimination in violation of the Equal Pay Act.

202. The differential in pay between Plaintiff Dickerson and similarly situated male employees was based on sex and was not due to seniority, merit, quantity or quality of production, or a factor other than sex.

203. Defendants caused, attempted to cause, contributed to, or caused the continuation of wage rate discrimination based on sex in violation of the Equal Pay Act.

204. Defendants willfully violated the Equal Pay Act and therefore a three-year statute of limitations applies to such violations pursuant to 29 U.S.C. § 255(a).

205. As a result of Defendants' unlawful conduct, Plaintiff Dickerson has suffered and will continue to suffer harm, including, but not limited to, lost earnings, lost benefits, lost future employment opportunities, and other financial losses, as well as non-economic damages.

206. Plaintiff Dickerson is entitled to all legal and equitable remedies available for violations of the Equal Pay Act, including, but not limited to, back pay, liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees and litigation costs, and other compensation pursuant to 29 U.S.C. § 216(b).

COUNT VII
VIOLATIONS OF THE FAMILY AND MEDICAL LEAVE ACT OF 1993,
29 U.S.C. § 2601, *et seq.*
(Plaintiff Dickerson Against Defendants)

207. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

208. The Family and Medical Leave Act ("FMLA") entitles employees suffering from a serious health condition to take leave related to that condition. 29 U.S.C. § 2601, *et seq.* This right includes an entitlement "to return to the same shift or the same or an equivalent work

schedule.” 29 U.S.C. § 2614; 9 CFR 825.215(e)(2). By terminating Plaintiff Dickerson while she was on medical leave, Defendants violated the FMLA.

209. It is unlawful for any employer “to interfere with, restrain, or deny the exercise of or the attempt to exercise” any right conferred by the FMLA, “to discharge or in any other manner discriminate against any individual for opposing any practice” the FMLA makes unlawful, or to retaliate or discriminate against any individual for taking FMLA-qualified leave. 29 U.S.C. § 2615.

210. Plaintiff Dickerson was on an FMLA-qualifying leave for medical reasons at the time of her termination.

211. By their termination of Plaintiff Dickerson, Defendants interfered with her FMLA-covered leave and retaliated against her because of it.

212. Defendants’ conduct was not in good faith and was in intentional violation of Plaintiff Dickerson’s FMLA rights.

213. As a result of Defendants’ unlawful conduct, Plaintiff Dickerson has suffered and will continue to suffer harm, including but not limited to lost earnings, lost benefits, and other financial losses, as well as non-economic damages.

214. By reason of Defendants’ unlawful conduct, Plaintiff Dickerson is entitled to all legal and equitable remedies available for violations of the FMLA, including an award of compensatory damages.

COUNT VIII
DEFAMATION, SLANDER, LIBEL, AND DEFAMATION PER SE
(Plaintiff Dickerson Against Defendant Novartis Corporation)

215. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

216. Upon information and belief, on or about March 17, 2015, Defendant Novartis Corporation released a statement that one of the plaintiffs who brought the instant lawsuit “was terminated for serious violations of the Novartis Code of Conduct.” The defamatory statement was republished in *FiercePharma* on March 18, 2015.

217. The statement was defamatory, having a tendency to expose Plaintiff Dickerson to public hatred, contempt, ridicule, or disgrace.

218. The statement constitutes defamation and/or slander per se.

219. The statement referred to, and would be reasonably understood to concern, Plaintiff Dickerson. Plaintiff Dickerson was the sole plaintiff in the instant lawsuit who had been terminated by the Company.

220. Defendant Novartis Corporation published the statement by communicating the statement to someone other than Plaintiff Dickerson. Upon information and belief, Defendant Novartis Corporation published the statement to, *inter alia*, a reporter at *FiercePharma*, who in turn republished the defamatory statement on March 18, 2015. Defendant Novartis Corporation published the statement without authorization.

221. The statement was false, and Defendant Novartis Corporation knew or should have known of its falsity. In fact, the real reason the Company terminated Ms. Dickerson was in retaliation for engaging in protected activity.

222. Defendant Novartis Corporation published the statement with malice. Defendant Novartis Corporation acted in a grossly irresponsible manner without consideration for the standards of information gathering and dissemination followed by responsible parties. Defendant Novartis Corporation knew or had reason to know the Company’s real reasons for

terminating Plaintiff Dickerson but nonetheless disseminated a false and defamatory explanation for her termination.

223. The statement caused harm to Plaintiff Dickerson. Plaintiff Dickerson suffered damages including personal humiliation, mental anguish and suffering, and damage to her reputation, career, and standing in the community.

224. Plaintiff Dickerson is entitled to all legal and equitable remedies available for defamation, including, but not limited to, nominal damages, compensatory damages, punitive damages, general damages, special damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT IX
DEFAMATION, SLANDER, LIBEL, AND DEFAMATION PER SE
(Plaintiff Dickerson Against Defendant Novartis Corporation)

225. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

226. Upon information and belief, on or about March 17, 2015, a spokeswoman for Defendant Novartis Corporation wrote to a reporter at the *Wall Street Journal*, stating that one of the former employees who brought the initial complaint in this matter had been terminated for “serious violations” of the Novartis Code of Conduct. The defamatory statement was excerpted and paraphrased in the *Wall Street Journal* on March 18, 2015.

227. The statement was defamatory, having a tendency to expose Plaintiff Dickerson to public hatred, contempt, ridicule, or disgrace.

228. The statement constitutes defamation and/or slander per se.

229. The statement referred to, and would be reasonably understood to concern, Plaintiff Dickerson. Plaintiff Dickerson was the sole plaintiff in the instant lawsuit who had been terminated by the Company.

230. Defendant Novartis Corporation published the statement, by communicating the statement to someone other than Plaintiff Dickerson. Upon information and belief, Defendant Novartis Corporation published the statement to, *inter alia*, a reporter at the *Wall Street Journal* who in turn republished the defamatory statement on March 18, 2015. Defendant Novartis Corporation published the statement without authorization.

231. The statement was false, and Defendant Novartis Corporation knew or should have known of its falsity. In fact, the real reason the Company terminated Ms. Dickerson was in retaliation for engaging in protected activity.

232. Defendant Novartis Corporation published the statement with malice. Defendant Novartis Corporation acted in a grossly irresponsible manner without consideration for the standards of information gathering and dissemination followed by responsible parties. Defendant Novartis Corporation knew or had reason to know the Company's real reasons for terminating Plaintiff Dickerson but nonetheless disseminated a false and defamatory explanation for her termination.

233. The statement caused harm to Plaintiff Dickerson. Plaintiff Dickerson suffered damages including personal humiliation, mental anguish and suffering, and damage to her reputation, career, and standing in the community.

234. Plaintiff Dickerson is entitled to all legal and equitable remedies available for defamation, including, but not limited to, nominal damages, compensatory damages, punitive

damages, general damages, special damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

COUNT X
DEFAMATION, SLANDER, LIBEL, AND DEFAMATION PER SE
(Plaintiff Dickerson Against Defendant Alcon Laboratories, Inc.)

235. Plaintiff Dickerson re-alleges and incorporates by reference each and every allegation in the previous paragraphs as though fully set forth herein.

236. On March 18, 2015, Novartis Executive Committee member and Alcon Division Head Jeff George sent an email to all Alcon Division associates discussing the filing of Plaintiffs' lawsuit and stating, "It is important to note that one of the two former employees was terminated for serious violations of the Novartis Code of Conduct and other internal policies. We do not tolerate such misconduct, and when inappropriate activities are identified, we take appropriate action, up to and including terminating employment when necessary."

237. Also on March 18, 2015, in conjunction with Novartis Executive Committee member and Alcon Division Head George's Company-wide email, Defendant Alcon disseminated to all Alcon Division associates a document, entitled "Important Facts about the Alcon Gender Discrimination Lawsuit." The document included the following statement: "It is important to note that one of these former employees was terminated for serious violations of our Code of Conduct and other internal policies. We do not allow activities that are not in compliance with the company's principles for ethical business conduct. When inappropriate activities are identified, we take appropriate action, including terminating employment when necessary."

238. The statement was defamatory, having a tendency to expose Plaintiff Dickerson to public hatred, contempt, ridicule, or disgrace.

239. The statement constitutes defamation and/or slander per se.

240. The statement referred to, and would be reasonably understood to concern, Plaintiff Dickerson. Plaintiff Dickerson was the sole plaintiff in the instant lawsuit who had been terminated by the Company.

241. Defendant Alcon Laboratories, Inc. published the statement by communicating the statement to someone other than Plaintiff Dickerson. Defendant Alcon Laboratories, Inc. published the statement to all employees in Novartis's Alcon Division. Defendant Alcon Laboratories, Inc. published the statement without authorization.

242. The statement was false, and Defendant Alcon Laboratories, Inc. knew or should have known of its falsity. In fact, the real reason the Company terminated Ms. Dickerson was in retaliation for engaging in protected activity.

243. Defendant Alcon Laboratories, Inc. published the statement with malice. Defendant Alcon Laboratories, Inc. acted in a grossly irresponsible manner without consideration for the standards of information gathering and dissemination followed by responsible parties. Defendant Alcon Laboratories, Inc. knew or had reason to know the Company's real reasons for terminating Plaintiff Dickerson but nonetheless disseminated a false and defamatory explanation for her termination.

244. The statement caused harm to Plaintiff Dickerson. Plaintiff Dickerson suffered damages including personal humiliation, mental anguish and suffering, and damage to her reputation, career, and standing in the community.

245. Plaintiff Dickerson is entitled to all legal and equitable remedies available for defamation, including, but not limited to, nominal damages, compensatory damages, punitive

damages, general damages, special damages, pre-judgment and post-judgment interest, and reasonable attorneys' fees and litigation costs.

PRAYER FOR RELIEF ON INDIVIDUAL, CLASS ACTION, AND COLLECTIVE ACTION CLAIMS

WHEREFORE, the Plaintiffs, Class Representatives, and EPA Collective Action Representatives, on their own behalf and on behalf of the respective Classes and EPA Collectives, pray that this Court:

A. Certify this case as a class action maintainable under Federal Rules of Civil Procedure Rule 23(a), (b)(2) and/or (b)(3), on behalf of the proposed Title VII Classes; designate the proposed Title VII Class Representatives as representatives of the respective Title VII Classes; and designate Plaintiffs' counsel of record as Class Counsel for each Title VII Class;

B. Certify this action as a collective action on behalf of the EPA Collective Action Representatives and the respective EPA Collectives; designate the proposed EPA Collective Action Representatives as representatives of the respective EPA Collectives; promptly issue notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the respective EPA Collectives, which (1) apprises them of the pendency of this action and (2) permits them to assert timely EPA claims in this action by filing individual Consent to Join forms pursuant to 29 U.S.C. § 216(b); and toll the statute of limitations on the claims of all members of the respective EPA Collectives from the date the original complaint was filed until the Collective members are provided with reasonable notice of the pendency of this action and a fair opportunity to exercise their right to opt in as EPA Collective Action Plaintiffs;

C. Declare and adjudge that Defendants' employment policies, practices, and/or procedures challenged herein are illegal and in violation of the rights of the respective Plaintiffs,

Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs;

D. Issue a permanent injunction against Defendants and their partners, officers, trustees, owners, employees, agents, attorneys, successors, assigns, representatives, and any and all persons acting in concert with them from engaging in any conduct violating the rights of Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, EPA Collective Action Plaintiffs, and those similarly situated as secured by Title VII and the Equal Pay Act, and order such injunctive relief as will prevent Defendants from continuing their discriminatory practices and from engaging in any further unlawful practices, policies, customs, usages, and gender discrimination as set forth herein;

E. Order Defendants to adjust the wage rates and benefits for the respective Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs to the level that they would be enjoying but for the Defendants' discriminatory policies, practices, and/or procedures;

F. Order Defendants to place or restore the Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs that they represent into those jobs that they would now be occupying but for Defendants' discriminatory policies, practices and/or procedures;

G. Award back pay, front pay, lost benefits, preferential rights to jobs, and other damages for lost compensation and job benefits suffered by the Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs;

H. Award nominal, compensatory, and punitive damages to Plaintiffs, Title VII Class Representatives, and members of the Title VII Classes;

I. Award nominal and liquidated damages to Plaintiffs, the EPA Collective Action Representatives, and the EPA Collective Action Plaintiffs in the maximum amount available under the Equal Pay Act;

J. Order Defendants to make whole the Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs by providing them with any other monetary and affirmative relief;

K. Award back pay, front pay, liquidated damages, and attorneys' fees and costs to Plaintiff Dickerson in the maximum amount available under the Family and Medical Leave Act;

L. Award Plaintiff Dickerson all legal and equitable remedies available for defamation, libel, slander, and defamation per se, including but not limited to nominal damages, compensatory damages, punitive damages, general damages, and special damages;

M. Enter judgment in favor of Plaintiff Dickerson in excess of \$15 million;

N. Award litigation costs and expenses, including, but not limited to, reasonable attorneys' fees, to the Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs;

O. Award Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs, all pre-judgment interest and post-judgment interest available under law;

P. Award Plaintiffs, Title VII Class Representatives, EPA Collective Action Representatives, members of the Title VII Classes, and EPA Collective Action Plaintiffs any other appropriate equitable relief;

Q. Order that this Court retain jurisdiction of this action until such time as the Court is satisfied that the Defendants have remedied the practices complained of herein and are determined to be in full compliance with the law; and


R. Award additional and further relief as this Court may deem just and proper.

VIII. JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable of right by jury.

Dated: December 22, 2015

SANFORD HEISLER KIMPEL, LLP

By: 

David Sanford, D.C. Bar No. 457933

SANFORD HEISLER KIMPEL, LLP

1666 Connecticut Avenue NW, Suite 300

Washington, DC 20009

Telephone: (202) 499-5201

Facsimile: (202) 499-5199

dsanford@sanfordheisler.com

Felicia Medina (Cal. Bar No. 255804)

SANFORD HEISLER KIMPEL, LLP

111 Sutter Street, Suite 975

San Francisco, CA 94104

Telephone: (415) 795-2024

Facsimile: (415) 795-2021

fmedina@sanfordheisler.com

Jeremy Heisler (JH-0145)

Alexandra Harwin, D.C Bar No. 1003018

SANFORD HEISLER KIMPEL, LLP

1350 Avenue of the Americas, 31st Floor

New York, New York 10019

Telephone: (646) 402-5655

Facsimile: (646) 402-5651

jheisler@sanfordheisler.com

aharwin@sanfordheisler.com

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of December, 2015, true and correct copies of Plaintiffs' First Amended Class, Collective, and Individual Complaint, previously filed on the 22nd day of December, 2015, were served upon all counsel of record via ECF.



Alexandra Harwin